

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 1000 of 1988

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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N F PATHAN

Versus

DIRECTOR GENERAL OF POLICE  
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Appearance:

MR YN OZA for Petitioner  
MR UA TRIVEDI, AGP for M/S MG DOSHIT & CO  
for Respondent No. 1  
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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE R.BALIA.

Date of decision: 01/10/97

ORAL JUDGEMENT (Rajesh Balia J.)

1. This contempt petition was filed by N.F. Pathan, since deceased, petitioner in Special Civil Application No.2060/85. The final order in the said petition was challenged in LPA No.113/86 and as per the directions

vide order dated July 16, 1988 of the Division Bench, the petitioner was granted the following reliefs:

- (a) He was to be considered promoted to the post of Police Inspector from the date of his junior was promoted in 1960 or thereafter and he be given seniority in the cadre of Police Inspector on that basis and that order was to be issued within a week of the receipt of the said order.
- (b) On the basis of his seniority in the cadre of Police Inspector, the petitioner was to be considered for promotion to the post of Deputy Superintendent of Police and the promotion to the post of Deputy Superintendent of Police should be finalised by 31st August 1988.
- (c) The respondents were directed to calculate the monetary benefits to which the petitioner would be entitled to by way of wages, dearness allowance, etc. on his promotion as Police Inspector.
- (d) It was lastly directed that the question of further monetary benefits on his promotion as Deputy Superintendent of Police, if any, be finalised as early as possible.

2. This contempt application was filed on 8th September 1988 alleging that the reliefs have not been given to him until 31st August 1988 within the time which the petitioner's case for promotion and monetary benefits were to be finalised, nor his date of promotion was notified as per the direction of the court.

3. After issuance of notice a reply was filed in which it was pointed out that order dated 16th August 1988 was served on the respondents on 21st July 1988. It is stated in the said reply that the petitioner was deemed to be promoted as Police Inspector from 9.1.1960 when the person junior to him i.e. Mr. B.F. Rana was promoted. The petitioner was assigned seniority above Mr. B.F. Rana. By order dated 31.8.1988 the petitioner was promoted to the post of Deputy Superintendent of Police and on that basis the petitioner was deemed to be promoted to the post of Deputy Superintendent of Police with effect from 9.8.1971. Regarding release of emoluments it is stated that before the calculations were made and payment thereof was made, the petitioner had filed Misc. Civil Application No.857/88 claiming certain benefits under the Income-Tax Act, 1961 and in the said

application the respondents were directed to deduct the income-tax having regard to section 89 of the Income-Tax Act which is a statutory requirement on the part of every employer. As a result of that exercise some delay had been caused and by 10.1.1989 the necessary payment has been made to the petitioner. Regarding further question of monetary benefits and promotion to the post of Deputy Superintendent of Police, the office of the Accountant General has been requested to release the amount of retirement benefits payable to the petitioner pursuant to the orders made by this court. It was also stated in the reply that since further promotion to the post of District Superintendent of Police from the State Cadre is governed by IPS (Appointment by Promotion Regulation), 1955, the petitioner had not become eligible.

4. From the reply it appears that as far as the directions contained in the order dated 16.7.1988, all are complied with and grievance, if any, based on the directions contained in the said order viz. about the date of further promotion and amount of monetary benefits calculated, etc, no case of contempt could be made out and the remedy would have been elsewhere. However, from the record of proceedings it appears that the matter has been pending hearing long and the additional affidavit has been filed by the petitioner. The petitioner has been given deemed promotion with effect from the date when his junior had been promoted and the monetary contributions had also followed though later than the time fixed by the court. In the additional affidavit the grievance was raised about the date of promotion to the post of Deputy Superintendent of Police. From the record we also find, in the additional affidavit on behalf of the respondent that in pursuance of the orders made by this court on 18.2.1992 the petitioner has been deemed to have been promoted to the post of Deputy Superintendent of Police with effect from 15.8.1988 and in pursuance of that direction the further calculation of amount payable to the petitioner was also done and placed on record showing the amount payable to the petitioner upto 30.4.1992.

5. In the aforesaid circumstances we find that all orders stand complied with and nothing more survives. At the time when the matter was called out, none of the parties were present.

6. The application is disposed of. Rule is discharged. No order as to costs.

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